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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/546,439	04/10/2000	Mikael Linden	442-009325-US(PAR)	3336
7590	01/27/2005		EXAMINER	
Perman & Green 425 Post Road Fairfield, CT 06430			HENEGHAN, MATTHEW E	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/546,439

Applicant(s)

LINDEN ET AL.

Examiner

Matthew Heneghan

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 July 2004 has been entered.
2. In response to the previous office action, Applicant has amended claims 1, 9, and 12. Claims 1-16 have been examined.

Drawings

3. The drawings were received on 26 July 2004. These drawings are acceptable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 8, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Application No. 848,316 to Angelo et al.

As per claims 1, 8, 9, and 12, the secure information transmission system disclosed by Angelo allows the acquisition of a driver module (such as a BIOS image) via a network that has been digitally signed by its originator (see column 2, lines 46-60). It is inherent that such a module being installed is modified, in order to remove the attached signature (see column 6, line 21 to column 7, line 10). The modules may be acquired by way of an FTP transfer from the code provider (see column 4, lines 44-46). Computers actuating FTP downloads from remote servers inherently specify the network address of the network server (e.g. "ftp://ftp.provider.com") in order to initiate an FTP transaction.

As per claim 5, BIOS modules are inherently composed of byte-compiled code.

As per claim 11, Angelo discloses that the network element may be a network server.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 848,316 to Angelo et al.

Regarding claims 6 and 7, Angelo discloses the use of identifying information in the signature that encrypted using hashes and keys (such as RSA), but does not specify that the identifying information is in the form of a character string.

Official notice is given that the use of character strings as identifying information is well-known in the art, as strings may be used to uniquely identify a sender.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to use character strings as identifying information in digital signatures, in order to uniquely identify a sender.

Regarding claims 13 and 14, the invention Angelo is used to receives commands for any portion of the BIOS and includes a network connection, but Angelo does not specifically state that code for the network interface from a vendor may be received via this process.

Official notice is given that network interfaces are retrieved by computers directly from vendors, in order that the computer have the most efficient available driver for its network interfaces.

Therefore it would be obvious to one of ordinary skill in the art to use the process disclosed by Angelo to receive the commands for the network interface from the vendor,

in order that the computer have the most efficient available driver for its network interfaces.

6. Claims 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 848,316 to Angelo et al. as applied to claim 1 above, and further in view of U.S. Patent No. 6,250,557 to Forslund et al.

Angelo discloses the retrieval of drivers via FTP, but does disclose the source of the address for the client's FTP call.

Forslund discloses a smart card system wherein addresses for downloads from "trusted" providers are stored directly on the smartcard (see column 8, lines 10-21), and further notes that this allows for downloads to be accomplished automatically with no further interaction by the requesting user.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the invention of Angelo by storing addresses for downloads from "trusted" providers are stored directly on the smartcard, as that this allows for downloads to be accomplished automatically with no further interaction by the requesting user.

Regarding claims 15 and 16, a network interface driver constitutes application data and driver code. Any collection of functions is a library, so the first and second control libraries are simply where the functions are stored in the system.

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7. Claims 2-4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 848,316 to Angelo et al. as applied to claims 1 and 9 above, and further in view of U.S. Patent No. 5,418,524 to Fennell.

Angelo does not disclose that software upgrades may be done using wireless equipment.

Fennell discloses the upgrading of terminal software using a radio modem (see abstract), and further suggests that an apparatus for doing so is needed, as alternative methods of upgrading such software requires a large amount of user tasking.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to implement the system disclosed by Angelo using a radio modem, as disclosed by Fennell as alternative methods of upgrading radio modem software requires a large amount of user tasking.

Response to Arguments

8. Applicant's arguments filed 22 July 2004 have been fully considered but they are not persuasive.

Regarding claims 1 and 9, Angelo inherently uses addresses, as described above.

Regarding claim 12, the grounds of rejection have been changed in view of the amendment, as described above.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,009,524 to Olarig et al. discloses the use of signatures in flash memory upgrades.

U.S. Patent No. 6,330,670 to England et al. discloses the trusted downloading of applications.

U.S. Patent No. 6,513,159 to Dodson discloses the intelligent updating of signed driver modules.

U.S. Patent No. 6,591,418 to Bryan et al. discloses a system for ensuring that a system receives authentic drivers.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (571) 272-3834. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached at (571) 272-3838.

Any response to this action should be mailed to:


Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

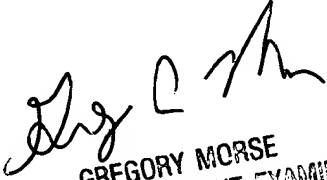
Or faxed to:

(703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEH 
January 21, 2005


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100